



CANNON BUILDING
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STATE OF DELAWARE
DEPARTMENT OF STATE

DIVISION OF PROFESSIONAL REGULATION

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MEETING MINUTES:

BOARD OF PROFESSIONAL LAND SURVEYORS

DATE AND TIME:

Thursday, April 21, 2011 at 8:30 a.m.

PLACE:

861 Silver Lake Boulevard, Dover, Delaware
Conference Room A, second floor of the Cannon Building

APPROVED:

June 16, 2011

MEMBERS PRESENT

Michael Szymanski, Professional Member, Chair
James Bielicki, Jr., Professional Member, Vice Chair
Mary Chvostal, Public Member, Secretary
Thomas Plummer, Professional Member
Elizabeth Rowe, Public Member (entered 8:40)
Laurence McBride, Professional Member
Mark Rosenthal, Public Member

DIVISION STAFF

Allison Reardon, Deputy Attorney General
Sandra Wagner, Administrative Specialist III

MEMBERS ABSENT

PUBLIC

Douglas Loewer

CALL TO ORDER

Mr. Szymanski called the meeting to order at 8:31 a.m.

Review and Approval of Minutes

Ms. Chvostal made a motion, seconded by Mr. Bielicki to approve the minutes. The motion was approved with Mr. Rosenthal and Mr. McBride abstaining.

Unfinished Business

Discussion of complaint 05-01-09 will be tabled until next meeting.

The Board discussed the correspondence from Mark Husik-Maryland Surveyors 2009 Fall Conference. Mr. Rosenthal made a motion, seconded by Ms. Chvostal, to approve the Maryland Surveyors 2009 Fall Conference's request to update all approved seminars from 3.5 to 4 PDHs. The website will be updated to show the change in PDHs. The motion was unanimously approved.

NEW BUSINESS

Mr. Szymanski asked for an amendment to the agenda. Ms. Chvostal made a motion, seconded by Mr. Rosenthal to amend the agenda by adding a discussion with Kay Warren about proposed statute changes.

Introduction of Chief Hearing Officer

Mr. Collins introduced the new Chief Hearing Officer for the Division, Mr. Roger Akin to the Board. Mr. Collins explained the role Mr. Akin will have in conducting some of the hearings for the Board of Professional Land Surveyors. At least initially, Mr. Akin will not be presiding over any hearings that would require the professional expertise of the Board members. Mr. Akin provided the Board with a brief summary of his background.

Discussion of recent regulatory change

Mr. Collins addressed the Board concerning the Board's recent regulatory changes to Regulation 12. Mr. Collins advised the Board that he had received several legislative inquiries about the recent changes to the Board's regulations.

Executive Session

Following the public discussion with Mr. Collins, the Board entered into executive session pursuant to 29 Del. C. §10004(b)(4) to obtain legal advice in the matter of Donald Elrod, *et. al.* v. the Delaware Board of Professional Land Surveyors, a Complaint for Declaratory Judgment filed in the Superior Court. Mr. Plummer made a motion, seconded by Ms. Rowe, to go into executive session at 9:38 a.m. The Board ended their executive session at 10:50 a.m.

Discussion of Proposed Statute Changes

Deputy Director Kay Warren addressed the Board regarding Senate Bill 308 that was tabled last year, due to a lack of consensus among the Board members regarding the proposed language amending the Board composition. Ms. Warren provided the Board with proposed draft language for a new bill that maintains county representation while eliminating existing ambiguous language in the statute concerning how many professional members from any one county can serve on the Board at the same time. The proposed amendment specifies that at least one, but not more than two, professional land surveyor members shall be appointed from each county of the State. Mr. Bielicki made a motion, seconded by Mr. Plummer, to approve Ms. Warren to draft the bill with the amended language. The motion was unanimously approved.

Discussion of Motion for Limited Re-argument regarding case 05-06-09

The Board received a motion for limited re-argument from Deputy Attorney General Barbara Gadbois in regard to Case Number 05-06-09 for Bruce McKenna. Ms. Chvostal made a motion, seconded by Ms. Rowe, to approve the State's motion for limited re-argument. Ms. Chvostal, Ms. Rowe, and Mr. Szymanski voted in favor of the motion. Mr. Bielicki, Mr. Plummer, and Mr. Rosenthal were opposed and Mr. McBride abstained... Ms. Reardon advised that the motion

failed for lack of 4 affirmative votes. The Board engaged in further discussion concerning the State's motion. Mr. Szymanski questioned whether the Board would grant the motion if the other party approached the Board for a limited re-argument and, if so, submitted that the State should be given the same opportunity. After discussion Mr. Rosenthal made a new motion, seconded by Ms. Rowe, to approve the State's motion for limited re-argument. The motion was carried with Mr. Plummer opposing and Mr. McBride abstaining.

Courses for Continuing Education Approval

Mr. Plummer reviewed the application from the Maryland Society of Land Surveyors for PDHs and recommended approval. Mr. Plummer made a motion, seconded by Mr. McBride, to approve Maryland Society of Surveyors-Annual St. Michael's Professional Development Series for June 10, 2011 for 8 PDHs and June 11, 2010 for 16 PDHs. The motion was unanimously approved.

Mr. Plummer reviewed the application from the Douglas P. Williams for PDHs and recommended approval. Mr. Plummer made a motion, seconded by Mr. McBride, to approve Mr. Douglas Williams teaching at Worwic Community College – Fundamentals of Surveying for 8 PDHs. The motion was unanimously carried.

Mr. Plummer reviewed the application from Kenneth J. O'Connell for PDHs and recommended approval. Mr. Plummer made a motion, seconded Ms. Chvostal, to approve PESI Real Property – Boundary Law & Landowner Disputes for 7 PDHs. The motion was unanimously approved.

Mr. Plummer reviewed the application from Kenneth J. O'Connell for PDHs and recommended denial. Mr. Plummer made a motion, seconded by Mr. McBride, to deny the approval of PDHs for American Society of Civil Engineers – Bridge Rehabilitation. The motion was unanimously approved.

Mr. Plummer reviewed the application from Kenneth J. O'Connell for PDHs and recommended denial. Mr. Plummer made a motion, seconded by Mr. McBride, to deny the approval of PDHs for ASCE-Liability of Engineers: How to Stay Out of Trouble. The motion was carried with Mr. Szymanski abstaining.

Mr. Plummer reviewed the application from Kenneth J. O'Connell for PDHs and recommended denial. Mr. Plummer made a motion, seconded by Ms. Chvostal, to deny the approval of PDHs for ASCE-Techniques for Pavement Rehabilitation. The motion was unanimously approved.

Mr. Plummer reviewed the application from Kenneth J. O'Connell for PDHs and recommended denial. Mr. Plummer made a motion, seconded by Mr. Rosenthal, to deny the approval of PDHs for Construction Management Association of America-CMAA Owner's Forum. The motion was unanimously approved.

Mr. Plummer reviewed the application from Kenneth J. O'Connell for PDHs and recommended denial. Mr. Plummer made a motion, seconded by Mr. Rosenthal, to deny the approval of PDHs for The Adcox Group, Inc-Current changes to chapter 61 G15-18, Chapter 471 FL Statutes. The motion was unanimously approved.

Mr. Plummer reviewed the application from Kenneth J. O'Connell for PDHs and recommended approval. Mr. Plummer made a motion, seconded by Ms. Chvostal, to approve Cowles Rinaldi, Judkins & Korjus, LTD-Construction Law 2011 for 7 PDHs. The motion was unanimously approved.

Mr. Plummer reviewed the application from Kenneth J. O'Connell for PDHs and recommended that the request be tabled. Mr. Plummer made a motion, seconded Mr. McBride, to table the Maryland Society of Surveyors-Statutory Laws of MD Relating to Land Surveyor "The Red Book" for 7 hours of ethics. The Board discussed that the request is not clear as to whether all of the 7 hours should be in ethics or just a portion of the hours. A new motion was entered by Mr. Plummer, seconded by Mr. McBride, to table the request and require more information on the amount of time spent on ethics. The Board needs to know, out of the 7 PDHs, how many should be for ethics. The motion was unanimously approved.

Review of Applications for Examination

There were no applications for Examination for review.

Review of Application for Reciprocity

Mr. Bielicki reviewed the application from Mr. James Sens.

Mr. Bielicki made a motion; seconded by Ms. Chvostal, to approve Mr. Sens's application and grant approval to sit for the Delaware Drainage Examination, contingent on receipt of original documentation of his scores from NJ. Once documentation is received he can sit for the next exam and after passing, be granted licensure in Delaware. The motion was unanimously approved.

Ratification of Issuance of Land Surveying Certificates of Authorization

Ms. Rowe made a motion, seconded by Mr. Rosenthal, to ratify the application of certificate of authorization for Herbert, Rowland, and Grubic, Inc. The motion was unanimously approved.

Complaint Assignments

There were no new complaint assignments.

Complaint Status

No changes to the complaint status at this time.

Hearings/Consent Agreements/Board Orders

Closed Complaints

None

Wall Certificates

There were no wall certificates to sign.

Audit Compliance Update

Ms. Wagner advised the Board of the status of the Audit Compliance.

OTHER BUSINESS BEFORE THE BOARD (FOR DISCUSSION ONLY)

The Board discussed the upcoming 2011 NCEES Annual Meeting. Mr. Szymanski explained that he has been to these meetings and he recommends that someone from the Board attend if they could.

PUBLIC COMMENT

Mr. Douglas Loewer approached the Board and expressed his concerns about the way continuing education gets approved and the timing of when the approved courses are placed on the Board's website. Mr. Loewer said he submits PDH requests for DelTech and when they get approved it takes too long for them to show up on the website, especially around renewal time. Ms. Wagner explained that once she sends out the approval letter to the person submitting the PDH application, she fills out a web request and from that point on it is out of her control. Mr. Loewer was informed that he can contact the Board office if he has questions about the approval status of PDHs that are not showing up on the website. Mr. Loewer expressed his strong belief that the Board's process is not working and that changes should be made.

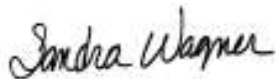
NEXT MEETING

The next scheduled meeting of the board is May 19, 2011 at 8:30 a.m. in Conference Room A, second floor of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware.

ADJOURNMENT

There being no further business before the Board, Mr. Rosenthal made a motion, seconded by Ms. Rowe to adjourn the meeting at 12:15 p.m. The motion was unanimously approved.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Sandra Wagner".

Sandra Wagner
Administrative Specialist III